

**FISCAL YEAR 2012
MONITORING REPORT
ON THE
SOUTH DAKOTA DIVISION OF
REHABILITATION SERVICES
PROGRAM**



**U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION**

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SECTION 1: EXECUTIVE SUMMARY

Background

Section 107 of the Rehabilitation Act of 1973, as amended (Rehabilitation Act), requires the Commissioner of the Rehabilitation Services Administration (RSA) to conduct annual reviews and periodic on-site monitoring of programs authorized under Title I of the Rehabilitation Act to determine whether a state vocational rehabilitation (VR) agency is complying substantially with the provisions of its State Plan under Section 101 of the Rehabilitation Act and with the evaluation standards and performance indicators established under Section 106. In addition, the commissioner must assess the degree to which VR agencies are complying with the assurances made in the State Plan Supplement for Supported Employment (SE) Services under Title VI, Part B, of the Rehabilitation Act.

Through its monitoring of the VR and SE programs administered by the South Dakota Division of Rehabilitation Services (DRS) in federal fiscal year (FY) 2012, RSA:

- reviewed the VR agency's progress toward implementing recommendations and resolving findings identified during the prior monitoring cycle (FY 2007 through FY 2010);
- reviewed the VR agency's performance in assisting eligible individuals with disabilities to achieve high-quality employment outcomes;
- recommended strategies to improve performance and required corrective actions in response to compliance findings related to three focus areas, including:
 - organizational structure requirements of the designated state agency (DSA) and the designated state unit (DSU);
 - transition services and employment outcomes for youth with disabilities; and
 - the fiscal integrity of the VR program;
- identified emerging practices related to the three focus areas and other aspects of the VR agency's operations; and
- provided technical assistance (TA) to the VR agency to enable it to enhance its performance and to resolve findings of noncompliance.

The nature and scope of this review and the process by which RSA carried out its monitoring activities, including the conduct of an on-site visit from May 14 through 17, 2012, is described in detail in the FY 2012 Monitoring and Technical Assistance Guide for the Vocational Rehabilitation Program or in PDF format.

Emerging Practices

Through the course of its review, RSA collaborated with DRS, the State Rehabilitation Council (SRC), the Region 8 Technical Assistance and Continuing Education (TACE) center and other stakeholders to identify the emerging practices below implemented by the agency to improve the performance and administration of the VR program.

Human Resource Development

- **Futures Initiative:** This is a succession planning activity that provides DRS staff members with opportunities to prepare for career advancement.

Transition

- **Regional Transition Forums:** These forums are conducted throughout the state to introduce transition-age youth and their parents to adult service providers so that students can move smoothly from school to the appropriate post-secondary activities.

A more complete description of these practices can be found in Section 3 of this report.

Summary of Observations

RSA's review of DRS resulted in the observations related to the focus area identified below. The entire observations and the recommendations made by RSA that the agency can undertake to improve its performance are contained in Section 5 of this report.

Fiscal Integrity of the VR Program

Contract Performance Goals and Monitoring

- DRS has established agreements for the provision of transition-related services. The stipulations in the documents, however, do not allow DRS to assess the performance and allocation of resources regarding the services provided.

Summary of Compliance Findings

RSA's review resulted in the identification of compliance findings in the focus areas specified below. The complete findings and the corrective actions that DRS must undertake to bring itself into compliance with pertinent legal requirements are contained in Section 6 of this report.

- DRS's third-party cooperative arrangements (TPCAs) with three private non-profit community rehabilitation programs called Project Skills are not properly structured with a public agency. In addition, DRS does not apply sufficient internal control procedures for public agencies in these arrangements to ensure the proper expenditure of funds.
- DRS does not monitor the Black Hills Special Services Cooperative agreement in a manner that assures compliance with federal requirements.
- DRS does not disburse Social Security Administration VR program income before drawing down additional federal VR funds.
- DRS does not apply the same policies and procedures the state utilizes for procurements from its non-federal funds to the purchase of client services.
- DRS did not accurately report financial data on SF-269 and SF-425 reports for the period of FY 2007 through 2011. In addition, DRS did not accurately report program income

transferred to State Independent Living Services (SILS) program during the period of FY 2007 through 2010.

- DRS received certified expenditures as match for the VR program as part of the institution of higher education agreement that do not meet the requirements of TPCAs.
- DRS expends VR program funds to pay for expenditures that must be incurred by SBVI for its portion of the administration and operation of South Dakota VR program.
- DRS's current agreement with the State Educational Agency (SEA) does not describe procedures for the identification of and outreach to students with disabilities needing transition services who are not receiving special education services.

Development of the Technical Assistance Plan

RSA will collaborate closely with DRS and the Region 8 TACE to develop a plan to address the TA needs identified by DRS in Appendix A of this report. RSA, DRS and TACE 8 will conduct a teleconference within 60 calendar days following the publication of this report to discuss the details of the TA needs, identify and assign specific responsibilities for implementing TA and establish initial timeframes for the provision of the assistance. RSA, DRS and Region 8 TACE will participate in teleconferences at least semi-annually to gauge progress and revise the plan as necessary.

Review Team Participants

Members of the RSA review team included Charles Sadler (TA Unit); Craig McManus (Fiscal Unit); David Jones, Christyne Cavataio and Zera Hoosier (VR Unit); Julia Doyle (Data Collection and Analysis Unit); and Timothy Beatty (Independent Living Unit). Although not all team members participated in the on-site visit, each contributed to the gathering and analysis of information, along with the development of this report.

Acknowledgements

RSA wishes to express appreciation to the representatives of DRS and the Department of Human Services (DHS) for the cooperation and assistance extended throughout the monitoring process. RSA also appreciates the participation of the Secretary of DHS, the SRC, the Client Assistance Program and advocates, the Region 8 TACE, and other stakeholders in the monitoring process.

SECTION 2: PERFORMANCE ANALYSIS

This analysis is based on a review of the programmatic and fiscal data contained in Tables 2.1 and 2.2 below and is intended to serve as a broad overview of the VR program administered by DRS. It should not be construed as a definitive or exhaustive review of all available agency VR program data. As such, the analysis does not necessarily capture all possible programmatic or fiscal trends. In addition, the data in Table 2.1 measure performance based on individuals who exited the VR program during federal FYs 2006 through 2010. Consequently, the table and accompanying analysis do not provide information derived from DRS open service records including current applicants, individuals who have been determined eligible and those who are receiving services. DRS may wish to conduct its own analysis, incorporating internal open caseload data, to substantiate or confirm any trends identified in the analysis.

Performance Analysis

VR Program Analysis

Table 2.1
DRS Program Performance Data for Federal FY 2006 through Federal FY 2010

All Individual Cases Closed	Number, Percent, or Average	2006	2007	2008	2009	2010	Change from 2006 to 2010	Agency Type 2010
TOTAL CASES CLOSED	Number	2,740	2,509	2,420	2,143	2,370	-370	317,162
	Percent	100.0%	100.0%	100.0%	100.0%	100.0%	-13.5%	100.0%
Exited as an applicant	Number	488	411	365	442	471	-17	49,928
	Percent	17.8%	16.4%	15.1%	20.6%	19.9%	-3.5%	15.7%
Exited during or after trial work experience/extended evaluation	Number	41	79	73	88	79	38	2,738
	Percent	1.5%	3.1%	3.0%	4.1%	3.3%	92.7%	0.9%
TOTAL NOT DETERMINED ELIGIBLE	Number	529	490	438	530	550	21	52,666
	Percent	19.3%	19.5%	18.1%	24.7%	23.2%	4.0%	16.6%
Exited without employment after IPE, before services	Number	97	71	89	79	76	-21	4,268
	Percent	3.5%	2.8%	3.7%	3.7%	3.2%	-21.6%	1.3%
Exited from order of selection waiting list	Number	0	28	3	0	0	0	6,587
	Percent	0.0%	1.1%	0.1%	0.0%	0.0%		2.1%
Exited without employment after eligibility, before IPE	Number	658	549	634	582	684	26	88,031
	Percent	24.0%	21.9%	26.2%	27.2%	28.9%	4.0%	27.8%
TOTAL EXITED AFTER ELIGIBILITY, BUT PRIOR TO RECEIVING SERVICES	Number	755	648	726	661	760	5	98,886
	Percent	27.6%	25.8%	30.0%	30.8%	32.1%	0.7%	31.2%

All Individual Cases Closed	Number, Percent, or Average	2006	2007	2008	2009	2010	Change from 2006 to 2010	Agency Type 2010
Exited with employment	Number	859	860	861	598	690	-169	87,039
	Percent	31.4%	34.3%	35.6%	27.9%	29.1%	-19.7%	27.4%
Exited without employment	Number	597	511	395	354	370	-227	78,571
	Percent	21.8%	20.4%	16.3%	16.5%	15.6%	-38.0%	24.8%
TOTAL RECEIVED SERVICES	Number	1,456	1,371	1,256	952	1,060	-396	165,610
	Percent	53.1%	54.6%	51.9%	44.4%	44.7%	-27.2%	52.2%
EMPLOYMENT RATE	Percent	59.00%	62.73%	68.55%	62.82%	65.09%	10.33%	52.56%
Transition age youth	Number	876	816	791	629	731	-145	107,377
	Percent	32.0%	32.5%	32.7%	29.4%	30.8%	-16.6%	33.9%
Transition aged youth employment outcomes	Number	276	308	330	187	226	-50	27,618
	Percent	32.1%	35.8%	38.3%	31.3%	32.8%	-18.1%	31.7%
Competitive employment outcomes	Number	847	844	845	581	674	-173	85,263
	Percent	98.6%	98.1%	98.1%	97.2%	97.7%	-20.4%	98.0%
Supported employment outcomes	Number	272	176	253	166	165	-107	11,214
	Percent	31.7%	20.5%	29.4%	27.8%	23.9%	-39.3%	12.9%
Average hourly wage for competitive employment outcomes	Average	\$7.77	\$8.10	\$8.84	\$8.99	\$9.19	\$1.41	\$11.14
Average hours worked for competitive employment outcomes	Average	28.0	28.6	29.7	28.7	28.8	0.8	30.9
Competitive employment outcomes at 35 or more hours per week	Number	329	341	362	222	262	-67	42,997
	Percent	38.3%	39.7%	42.0%	37.1%	38.0%	-20.4%	49.4%
Employment outcomes meeting SGA	Number	395	403	435	271	339	-56	56,039
	Percent	46.0%	46.9%	50.5%	45.3%	49.1%	-14.2%	64.4%
Employment outcomes with employer-provided medical insurance	Number	175	163	187	118	106	-69	19,288
	Percent	20.4%	19.0%	21.7%	19.7%	15.4%	-39.4%	22.2%

Positive Trends

As shown in Table 2.1, DRS demonstrated several positive trends during the five-year period between FYs 2006 and FY 2010, particularly with regard to individuals exiting the program with employment outcomes. The largest percentage of individuals exiting the VR program in FY 2010 included individuals who exited with employment outcomes, accounting for 29.1 percent of the total cases closed. This was slightly higher than the national average of general agencies at 27.4 percent. Similarly, the employment rate for individuals served by DRS in FY 2010 was 65.1 percent, which was higher than the 52.6 percent national average for general agencies. The percentage of individuals who achieved supported employment (SE) outcomes has been consistently high. In FY 2010, of the total employment outcomes, 23.9 percent were SE outcomes. This is higher than the national average of general agencies at 12.9 percent.

The quality of employment outcomes for DRS consumers has been consistent over the last five years. The average hourly wage for individuals with competitive employment outcomes has slowly increased every year from \$7.77 in FY 2006 to \$9.19 in FY 2010. The average hours worked for individuals closed with competitive employment has increased slightly from 28 in FY 2006 to 28.8 in FY 2010.

Trends Indicating Potential Risk to the Performance of the VR Program

The percentage of individuals who exited the VR system before eligibility determination has increased over the last five years from 19.3 percent in FY 2006 to 23.2 percent in FY 2010. This percentage was higher than the national average of general agencies at 16.6 percent. This category includes individuals who exited the system as applicants, and during or after trial work experience/extended evaluation. In FY 2010, 19.9 percent of individuals exited as applicants compared to the 15.7 percent national general agency average. Additionally, 3.3 percent of individuals exited during or after trial work experience which was higher than the national average of general agencies at 0.9 percent. While these trends are not of immediate concern, DRS may consider making efforts to educate referral sources to ensure appropriate individuals with disabilities are referred to DRS.

Fiscal Analysis

Table 2.2
DRS Fiscal Performance Data for Federal FY 2007 through Federal FY 2011

VR Fiscal Profile	Quarter	2007	2008	2009	2010	2011
Grant amount per MIS	4th	7,614,808	7,583,216	8,036,058	8,125,992	8,125,992
	Latest/ Final*	7,614,808	7,583,216	8,036,058	8,125,992	8,125,992
Total outlays	4th	6,967,381	6,711,424	6,250,015	6,128,713	4,980,260
	Latest/ Final*	9,675,941	9,635,773	10,211,201	10,325,426	7,946,928
Total unliquidated obligations	4th	2,907,079	3,374,090	2,661,182	488,341	3,136,908
	Latest/ Final*	0	0	0	0	901,481
Federal Share of Total Outlays	4th	5,258,961	5,117,181	4,074,872	3,775,795	2,780,776
	Latest/ Final*	7,614,808	7,583,216	8,036,058	8,125,992	5,747,444
Federal share of unliquidated obligations	4th	2,318,671	2,466,035	2,093,285	334,856	3,136,908
	Latest/ Final*	0	0	0	0	901,481
Total federal share	4th	7,577,632	7,583,216	6,168,157	4,110,651	5,917,684
	Latest/ Final*	7,614,808	7,583,216	8,036,058	8,125,992	6,648,925
Recipient funds	4th	1,708,420	1,594,243	2,175,143	2,352,918	2,199,484
	Latest/ Final*	2,061,133	2,052,557	2,175,143	2,199,434	2,199,484
Recipient share of unliquidated obligations	4th	588,408	908,055	567,897	153,485	0

VR Fiscal Profile	Quarter	2007	2008	2009	2010	2011
	Latest/ Final*	0	0	0	0	0
Agency actual match (total recipient share)	4th	2,296,828	2,502,298	2,743,040	2,352,918	2,199,484
	Latest/ Final*	2,061,133	2,052,557	2,175,143	2,199,434	2,199,484
Agency required match	4th	1,423,327	1,384,955	1,102,856	1,021,911	752,612
	Latest/ Final*	2,060,933	2,052,382	2,174,943	2,199,284	1,555,534
Over/under match	4th	-873,501	-1,117,343	-1,640,184	-1,331,007	-1,446,872
	Latest/ Final*	-200	-175	-200	-150	-643,950
MOE **	4th					
	Latest/ Final*			2,175,143	2,199,434	2,199,484
Unobligated funds qualifying for carryover	4th	37,176	0	1,867,901	4,015,341	2,208,308
	Latest/ Final*	0	0	0	0	1,477,067
Total program income realized	4th	219,657	289,365	390,489	396,407	679,350
	Latest/ Final*	274,681	289,365	390,489	396,407	679,350
Total indirect costs	4th	243,283	241,088	186,484	233,145	286,455
	Latest/ Final*	269,684	265,207	292,158	332,150	314,436

*Denotes Final or Latest SF-269 or SF-425 Submitted

**Based upon Final or Latest SF-269 or SF-425 Submitted

RSA reviewed fiscal performance data from federal FYs 2007 through 2011. State appropriated funds comprised between 82.2 to 87.7 percent of the agency's non-federal share over the five-year span. For FYs 2007 through 2009, the recipient share of unliquidated obligations at the fourth quarter was \$588,408 (28.5 percent of match) in FY 2007, \$908,055 (44.2 percent of match) in FY 2008, and \$567,897 (26.1 percent of match) in FY 2009. These figures decreased in FY 2010 and dropped to \$0 in FY 2011. DRS met its match and MOE requirements in all five years. The federal share of unliquidated obligations was high in FYs 2007 through 2009 and FY 2011, ranging from 26 percent in FY 2009, up to 38.6 percent in FY 2011. Minimal carryover balances in FYs 2007 and 2008 were significantly higher in FYs 2009 through 2011, from \$1,867,901 (23.2 percent of the federal award) in FY 2009, to \$4,015,341 (49.4 percent of the federal award) in FY 2010, to \$2,208,308 (27.2 percent of the federal award) in FY 2011. Program income reported increased across the five-year span, from a low of \$219,657 in FY 2007 to a high of \$679,350 in FY 2011. Social Security reimbursement program income funds were transferred from the VR program to State Independent Living Services program.

SECTION 3: EMERGING PRACTICES

While conducting the monitoring of the VR program, the review team collaborated with DRS, SRC, TACE 8, and agency stakeholders to identify emerging practices in the following areas:

- strategic planning;
- program evaluation and quality assurance practices;
- financial management;
- human resource development;
- transition;
- the partnership between the VR agency and SRC;
- the improvement of employment outcomes, including supported employment and self-employment;
- VR agency organizational structure; and
- outreach to unserved and underserved individuals.

RSA considers emerging practices to be operational activities or initiatives that contribute to successful outcomes or enhance VR agency performance capabilities. Emerging practices are those that have been successfully implemented and demonstrate the potential for replication by other VR agencies. Typically, emerging practices have not been evaluated as rigorously as "promising," "effective," "evidence-based," or "best" practices, but still offer ideas that work in specific situations.

As a result of its monitoring activities, RSA identified the emerging practices below.

Human Resource Development

- **Futures Initiative:** The Futures Initiative is a succession planning initiative that began on January 1, 2008 to help develop leadership skills within the agency. Currently, there are eight members who were chosen based on their exemplary work performance and leadership potential, combined with their interest to mentor new staff, seek management positions, and improve their leadership skills. Each member participates for three years, with individual leadership plans completed and approved by the Assistant Director.

The members have opportunities to develop their leadership and management skills through participation in the following activities: State Rehabilitation Council and Statewide Independent Living Council meetings; National Disability Employment Awareness Month events; new employee interviews; service record reviews; and supervisory meetings. Members complete projects related to the goals and strategies of the DRS State Plan, such as:

- revise descriptions of services purchased from VR providers;
- revise self-employment policy and conduct training;
- develop job readiness and career assessment tools and training;
- revise and develop VR-mental health (MH) cooperative agreements;

- develop guidance on job accommodation and conduct training; and
- design and develop agency and employer brochures.

During FY 2012, DRS successfully completed the first cycle of the Futures Initiative program resulting in three agency staff members securing positions of increased responsibility within the agency.

Transition

- **Regional Transition Forums (RTFs):** To introduce transition-age youth and their parents to adult service providers so that students can move smoothly from school to the appropriate post-secondary activities, DRS conducts RTFs throughout the state. The RTFs are organized by the Transition Services Liaison Project (TSLP), a contract provider, in collaboration with DRS and the SD Office of Special Education. The forums are informal and interactive meetings that allow parents and students to network and make connections with adult service agency staff, and identify resources that a transition student may access in the future. RTFs link individualized education plan (IEP) academic goals with individualized plan for employment (IPE) vocational goals to ensure a seamless transition from school to appropriate post-school activities. The representatives available to answer questions from students and families include DRS, South Dakota Service to the Blind and Visually Impaired, centers for independent living, community service providers, employment specialists, post-secondary disability services, Social Security benefits planning specialists, and staff from Division of Developmental Disabilities Services.

A complete description of the practices described above can be found on the RSA website.

SECTION 4: RESULTS OF PRIOR MONITORING ACTIVITIES

During its review of the VR and SE programs in FY 2012, RSA assessed progress toward the implementation of goals and strategies that DRS agreed to address during the prior monitoring cycle in FY 2007. These goals will no longer be followed-up in RSA monitoring, but will be folded into DRS' state and strategic planning activities.

Recommendations

In response to RSA's monitoring report dated September 7, 2007, DRS agreed to implement the recommendations below. A summary of the agency's progress toward implementation of each recommendation is included.

Goal 1: Over the next three years, DRS will narrow the gap between the average hourly earnings of individuals exiting the VR program with a paid employment outcome and the state average hourly earnings, as addressed in Performance Indicator 1.5.¹

Goal Status: Overall, DRS's performance on Indicator 1.5 has increased slightly over the past five years, rising from .539 in FY 2007 to .552 in FY 2011.

Table 4.1
DRS Performance on Standard and Indicator 1.5 for FY 2007 through 2011

Indicator 1.5 Measures	2007	2008	2009	2010	2011
Average hourly wage of competitively employed	\$8.10	\$8.84	\$8.99	\$9.19	\$9.36
State average hourly wage	\$15.01	\$15.68	\$15.88	\$16.34	\$16.96
Performance level	.539	.564	.566	.562	.552
Pass or Fail	Pass	Pass	Pass	Pass	Pass

Strategy 1: Maximize postsecondary training.

Status: DRS supports and jointly funds (with the SD Office of Special Education) transition activities through the Transition Services Liaison Project (TSLP) to include: annual Youth Leadership Programs held on a college campus to provide intensive training to students with disabilities and to promote informed choice in utilizing post-secondary training; annual Youth Leadership Forum; four Catch the Wave events held annually on a college campus for potential students with disabilities who are interested in attending a vocational technical program or university when they leave high school; four annual regional forums; an annual training for special education teachers on transition planning; and helping to ensure participation of DRS VR Counselors at IEP meetings.

¹ Performance Indicator 1.5: "Measure the average hourly earnings of all individuals who exit the VR program in competitive, self-employment, or BEP employment with earning levels equivalent to at least the minimum wage as a ratio to the State's average hourly earnings for all individuals in the State who are employed." RSAs minimum performance level for Indicator 1.5 for General and Combined agencies is 0.52

In FY 2012, DRS merged its annual fall conference with the transition conference. The agency continues to promote the utilization of post-secondary education to increase consumer earning potential at transition activities and during the development of IPEs. Agency staff members provide financial assistance to individuals (i.e., travel assistance for interviews out of town, relocation expenses) when considering employment options with higher wages.

Strategy 2: Identify higher paying positions.

Status: DRS staff have become members of the Society of Human Resource Management chapters in their communities; attend weekly Career Center staff meetings; periodically meet with area providers; exchange information with business and local, state and federal government entities, for job postings (i.e., universities, county extension office). A DRS program specialist has been designated as the point of contact in distributing job openings across the state and working with Council of State Administrators of Vocational Rehabilitation National Employment Team. DRS provided training on utilizing the Schedule A option in applying for federal jobs, and also provided training and encouraged utilization of various resources, such as: Department of Labor website (South Dakota Works Job Search), Occupational Information Network (O*NET) website, and Chamber of Commerce economic statements on salaries.

Strategy 3: Increase and strengthen transition services for students with disabilities.

Status: The TSLP activities listed under Goal 1, Strategy 1 above have been helpful in improving service delivery to transition-age youth. The TSLP liaisons hosted activities with post-secondary disability services coordinators (i.e., monthly and annual meetings, training on psychological testing for staff of both entities), and extended invitations for them to attend DRS district office staff meetings. DRS District Supervisors and VR Counselors met at least annually with disability service coordinators from SD's post-secondary programs.

Strategy 4: Work with providers on increasing individual earnings.

Status: DRS implemented the Ticket-to-Work initiative that shares payments with providers when an individual's earnings achieves various milestones. The agency provided intensive job development training to employment specialists and VR counselors. In addition, DRS established incentives in the fee schedule for providers that promote higher earnings and continued employment.

Strategy 5: Operationalize Medical Assistance for Workers with Disabilities (MAWD) to increase earnings. (MAWD is the Medicaid Buy-In program in South Dakota).

Status: MAWD has been successfully implemented. MAWD activities are being funded by DRS to include MAWD determinations and oversight.

Strategy 6: Educate SSA recipients about ways to maximize earnings and retain benefits.

Status: The Freedom to Work Project (funded through DRS Medicaid Infrastructure Grant) has been very successful in providing training sessions to Social Security beneficiaries on work

incentives. This has been accomplished through training sessions and the availability of benefits specialists for each district office. DRS encouraged counselors, consumers, and family members to attend various workshops and training events (e.g., benefits and employment trainings, Social Security trainings on PASS and IRWE, and job search training assistance programs). Education and training opportunities are offered to consumers, providers and staff regarding the MAWD program. DRS held monthly meetings with various providers to discuss strategies to improve earning potential (wages and hours) for individuals. The agency has implemented a referral process for consumers who are SSA recipients to meet with benefits specialists.

Strategy 7: Review service records of individuals earning less than minimum wage to determine improvement areas to increase earnings.

Status: When a VR counselor is planning to close the case for an individual who is earning less than the minimum wage, the case is reviewed by the Assistant Director prior to closure to determine if substantial services were provided, and if earning less than the minimum wage is appropriate and in compliance with DOL wage and hour requirements.

Strategy 8: Monitor the impact of increases in minimum wage on average hourly earnings compared with benchmarks for FY 2006.

Status: In a two-year time period, the minimum wage increased from \$5.15 to \$7.25 per hour² and DRS monitored the impact of the increase on the Project Skills program. The Project Skills budget was increased to compensate for the increased wages with no adverse impact.

Goal 2: DRS will maintain and/or increase the average hours worked per week by individuals exiting the VR program with a paid employment outcome in order to improve their overall wages.

Goal Status: The average hours per week for all individuals increased during FY 2008 and decreased the following year, primarily due to the economic recession. While Social Security Administration (SSA)³ recipients and supported employment (SE)⁴ individuals slightly increased, transition-age youth⁵ gradually decreased.

Table 4.2
DRS Average Hours Worked per Week for Target Populations and
Total Cases Closed for FY 2006 through 2011

DRS Cases Closed	2006	2007	2008	2009	2010	2011
Transition-age youth	34.82	31.92	31.91	30.54	30.36	30.71
SSA recipients	21.49	21.13	23.92	22.85	22.11	22.08
SE individuals	19.59	19.54	23.32	22.61	21.90	21.57

² Federal Minimum Wage Increases: 7/24/2007 - \$5.85; 7/24/2008 - \$6.55; and 7/24/2009 - \$7.25.

³ Social Security Administration (SSA): Individuals who received VR services and concurrently received SSA benefits at some time during the life of the case.

⁴ Supported Employment (SE): Individuals who were closed with employment outcomes and had a SE goal.

⁵ Transition-age Youth: DRS defines transition-age youth as individuals under 21 years of age at application, while RSA defines this population as 14 to 24 years of age at application.

DRS Cases Closed	2006	2007	2008	2009	2010	2011
All individuals	27.88	28.45	29.60	28.55	28.56	28.85

Strategy 1: Educate SSA recipients about the benefits of employment and ways to maximize their work hours and retain benefits.

Status: See Goal 1, Strategy 6 above.

Strategy 2: Operationalize MAWD to increase the hours of employment.

Status: See Goal 1, Strategy 5 above.

Strategy 3: Review cases of individuals successfully employed and working fewer than 10 hours per week to determine improvement areas to increase hours of employment.

Status: Cases of individuals successfully employed and working less than 10 hours a week are reviewed by the Assistant Director prior to closure to determine if substantial services were provided and if the number of hours are appropriate.

Strategy 4: Assess the impact of increases in minimum wage on average hours worked for Transition, SSA, SE, and all cases, compared with FY 2006 benchmarks.

Status: DRS was concerned that when the hourly wage increased, the hours worked would decrease. This did not occur. It appears that the increase in minimum wage did not result in fewer hours worked.

Goal 3: DRS will maintain and/or improve the employment rate of individuals with disabilities to address Performance Indicator 1.2.

Goal Status: DRS maintained or increased its 63 percent employment rate from FYs 2007 through 2010; however, the employment rate decreased to 57 percent in FY 2011.

Strategy 1: Create partnerships with business community to increase employment outcomes.

Status: District offices have membership with the local State Human Resource Management (SHRM), Chamber of Commerce and economic development committees. The agency has utilized and expanded the Employer Resource Network as a model to enhance partnerships and educate employers (i.e., employee assistance programs, job accommodations, assistive technology). Two Futures Initiative members conducted projects in their communities to promote business partnerships. Additionally, the agency helped establish Project Search in Aberdeen, Watertown and Sioux Falls. This partnership includes the school districts, Department of Labor, local providers and the local hospital. Finally, DRS and Medicaid Infrastructure Grant staff have been working with New Tec in Aberdeen to develop additional technical training programs for individuals with disabilities.

Strategy 2: Support employer activities for hiring individuals with disabilities.

Status: Sioux Falls and Aberdeen Project Search programs established Business Advisory Councils to assist with the placement of Project Search participants. The agency worked with the Statewide Diversity SHRM director to disseminate and post on the SHRM website the resumes for individuals receiving DRS services. DRS continues to work with established Employer Resource Networks, while expanding this activity to new communities, in posting monthly profiles/resumes of individuals served by DRS.

Strategy 3: Strengthen working relationships with other agencies and organizations to enhance the delivery of VR services to increase employment outcomes.

Status: DRS participates in weekly and monthly meetings with the following agencies, organizations, and other service providers: Departments of Social Services and Labor; Office of Special Education, private providers, homeless coalitions, community and county health organizations, community action programs, career learning centers, veterans organizations, drug and alcohol treatment centers, Salvation Army and other missions, church groups, independent living centers, Department of Corrections and parole officers, alternative sentencing program staff, and Division of Developmental Disabilities outreach program staff. Referral procedures for obtaining assistive technology services and devices from the DakotaLink (South Dakota's Assistive Technology Project) have been updated and training provided to VR Counselors. The agency participated in the Freedom to Work Leadership Council in Aberdeen, Brookings, Rapid City, Yankton, and Sioux Falls. DRS provided two-day training for the Department of Labor's newly hired "Disability Program Navigators," and extended invitations for them to attend the DRS Fall Conference and other DRS staff meetings. In addition, the agency provided training to all VR staff on the National Career Readiness Certification.

Strategy 4: Market individuals with disabilities to employers.

Status: DRS developed a new agency brochure to promote its services to employers. The agency purchased marketing supplies such as pens and table covers to use at conferences or other events, and hosted booths at a variety of conferences. DRS staff attended Chamber of Commerce meetings/events and provided brochures. Staff also participated in community activities (e.g., job fairs, Career Center's sponsored resource day for businesses, and conducted on-site visits with local businesses for better understanding of their needs). VR Counselors worked with local high schools in job shadowing projects. DRS introduced the SHRM as a training resource to the SRC and the Statewide Independent Living Council.

Strategy 5: Assess the impact of Order of Selection (OOS) on this performance indicator.

Status: DRS continues to monitor the impact of the OOS and provides status reports to the DHS Secretary and to the SRC. As of January 1, 2008, there are no longer any individuals on a waiting list. The agency continues to monitor the case services budget and expenditures to ensure service delivery to all eligible individuals. The majority of the American Recovery and Reinvestment Act funds were used for case services.

Recommendation: RSA recommended in the FY 2007 monitoring report that the agency strengthen the language in third-party cooperative arrangements (TPCAs) to clearly state that

the services provided under these arrangements are not a responsibility of the cooperating agency, and that only VR consumers, or those eligible for services, can be served under the cooperative arrangement.

Status: The language was changed in the Project Skills TPCAs subsequent to the FY 2007 RSA on-site monitoring review. RSA verified that the language in the arrangements was revised during the course of the FY 2012 review.

Compliance Findings and Corrective Actions

There were no compliance findings from the monitoring review conducted during FY 2007.

SECTION 5: FOCUS AREAS

A. Organizational Structure Requirements of the Designated State Agency (DSA) and Designated State Unit (DSU)

The purpose of this focus area was to assess the compliance of DRS with the federal requirements related to its organization within South Dakota Department of Human Services (DHS) and the ability of the DRS to perform its non-delegable functions, including the determination of eligibility, the provision of VR services, the development of VR service policies, and the expenditure of funds. Specifically, RSA engaged in a review of:

- compliance with statutory and regulatory provisions governing the organization of DHS and DRS under 34 CFR 361.13(b);
- processes and practices related to the promulgation of VR program policies and procedures;
- the manner in which DRS exercises responsibility over the expenditure and allocation of VR program funds, including procurement processes related to the development of contracts and agreements;
- procedures and practices related to the management of personnel, including the hiring, supervision and evaluation of staff; and
- the manner in which DRS participates in the state's workforce investment system.

In the course of implementing this focus area, RSA consulted with the following agency staff and stakeholders:

- DHS and DRS directors and senior managers;
- DHS and DRS staff members responsible for the fiscal management of the VR program;
- SRC Chairperson and members;
- Client Assistance Program staff members; and
- TACE 8 center representatives.

In support of this focus area, RSA reviewed the following documents:

- diagrams and supporting documentation illustrating the DSU's position in relation to the DSA, its relationship and position to other agencies that fall under the DSA, and the direction of supervisory reporting between agencies;
- diagrams and supporting documentation identifying all programs from all funding sources that fall under the administrative purview of the DSU, illustrating the number of full-time equivalent (FTE) staff working on each program;
- the number of FTEs in each program, identifying the specific programs on which they work and the individuals to whom they report, specifically including:
 - individuals who spend 100 percent of their time working on the rehabilitation work of DRS;
 - individuals who work on rehabilitation work of the DRS and one or more additional programs/cost objectives (e.g., One-Stop Career Centers); and

- individuals under DRS that do not work on VR or other rehabilitation within the DSU.
- sample memoranda of understanding (MOUs) and/or cost allocation plans with One-Stop Career Centers; and
- documents describing South Dakota procurement requirements and processes.

Overview

The SD DRS is located within DHS as the DSA. DHS is led by a Secretary, appointed by the Governor. DRS is led by a director, which is an exempt position within state government. DHS contains the following four divisions, in addition to DRS, all led by a director: Service to the Blind and Visually Impaired, Budget and Finance, Developmental Disabilities, and the South Dakota Developmental Center.

At the time of the review, DRS employed a total of 91 staff members. Sixty-seven staff members were employed in the VR program, while 24 were employed in the Disability Determination Unit. The Assistant Director is responsible for managing the five district offices, housing 62 employees, including: five district supervisors, 38 VR counselors, one Rehabilitation Teacher, and 18 support staff. All staff members employed by DRS were engaged full time in the VR program or vocational and other rehabilitation work of the DSU.

RSA's review of the organizational structure of the DRS did not result in the identification of observations and recommendations. In addition, the implementation of this focus area did not result in the identification of compliance findings.

B. Transition Services and Employment Outcomes for Youth with Disabilities

The purpose of this focus area was to assess DRS's performance related to the provision of transition services to, and the employment outcomes achieved by, youth with disabilities and to determine compliance with pertinent federal statutory and regulatory requirements.

Section 7(37) of the Rehabilitation Act defines "transition services" as a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation.

In the course of implementing this focus area, RSA identified and assessed the variety of transition services provided in the state, including community-based work experiences and other in-school activities, and post-secondary education and training, as well as the strategies used to

provide these services. RSA utilized five-year trend data to assess the degree to which youth with disabilities achieved quality employment with competitive wages. In addition, RSA gathered information related to the coordination of state and local resources through required agreements developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) and the Rehabilitation Act, and communities of practice. RSA also gathered information regarding emerging practices initiated by the VR agency in the area of services to youth with disabilities, as well as TA and continuing education needs of VR agency staff.

To implement this focus area, RSA reviewed:

- the progress toward the implementation of recommendations accepted by DRS and the resolution of findings related to the provision of transition services identified in the prior monitoring report from FY 2007 (see Section 4 above);
- formal interagency agreements between the VR agency and the state educational agency (SEA);
- transition service policies and procedures;
- VR agency resources and collaborative efforts with other federal, state and local entities; and
- third-party cooperative arrangements (TPCAs) and other cooperative agreements.

In support of its monitoring activities, RSA reviewed the following documents:

- the agreement between the VR agency and the state education agency (SEA);
- samples of signed and implemented TPCAs;
- samples of other cooperative agreements; and
- VR policies and procedures for the provision of transition services.

To assess the performance related to the provision of transition services and the outcomes achieved by youth with disabilities, RSA reviewed DRS relevant data from FY 2006 through 2010, describing:

- the number and percentage of transition-age youth who exited the VR program at various stages of the process;
- the amount of time these individuals were engaged in the various stages of the VR process, including eligibility determination, development of the IPE and the provision of services;
- the number and percentage of transition-age youth receiving services, including assessment, university and vocational training, rehabilitation technology and job placement; and
- the quantity, quality and types of employment outcomes achieved by transition-age youth.

To provide context for the agency's performance in the area of transition, RSA also compared the performance of DRS with the national average of all general state agencies.

As part of its review activities, RSA met with the following DSU staff and stakeholders to discuss the provision of services to youth with disabilities:

- the DRS director and deputy director;
- DRS VR counselors and transition staff;
- the SD Office of Special Education (OSE) director and staff; and
- local school personnel, including special education teachers.

RSA's review of transition services and employment outcomes achieved by youth with disabilities did not result in the identification of observations and recommendations. In addition, the compliance findings identified by RSA through the implementation of this focus area are contained in Section 6 of this report.

Technical Assistance

RSA provided TA to DRS regarding:

- the need to ensure transition IPE goals are specific and do not list Project Skills as a goal since it is a transition service and is not consistent with the individual's long-term career interests;
- the need for DRS to build on its QA manual to proactively assess the impact of each of its transition initiatives, including Project Skills, Catch the Wave, and the Youth Leadership Forum beyond Indicator 14 measures, a comprehensive assessment of post-school outcomes of students with IEPs, as established by the SD OSE;
- the need for DRS to incorporate into the SEA the IPE as a resource to serve students ages 19-21 since the IPE incorporates the vocational goal and the services to support that goal, which are not contained in the IEP; and
- the need to further outline the financial responsibilities of SD OSE beyond students enrolled in Project Skills within the SEA agreement.

C. Fiscal Integrity of the Vocational Rehabilitation Program

For purposes of the VR program, fiscal integrity is broadly defined as the proper and legal management of VR program funds to ensure that VR agencies effectively and efficiently manage funds to maximize employment outcomes for individuals with disabilities. Through the implementation of this focus area, RSA assessed the fiscal performance of the VR and SE programs and compliance with pertinent federal statutory and regulatory requirements, including cost principles, governing four components of review: financial resources, match and maintenance of effort (MOE), internal controls, and fiscal planning.

RSA used a variety of resources and documents in the course of this monitoring, including data maintained on RSA's MIS generated from reports submitted by the VR agency, e.g., Financial Status Report (SF-269/SF-425) and the Annual VR Program/Cost Report (RSA-2). The review covered fiscal data from federal FYs 2007 through 2011, along with other fiscal reports as necessary, to identify areas for improvement and potential areas of noncompliance.

Where applicable, RSA engaged in the review of the following to ensure compliance with federal requirements:

- the FY 2007 monitoring report issued pursuant to Section 107 of the Rehabilitation Act (see Section 4 above for a report of the agency's progress toward implementation of recommendations and resolution of findings);
- A-133 audit findings and corrective actions;
- VR agency allotment/budget documents and annual federal fiscal reports;
- grant award, match, MOE, and program income documentation;
- agency policies, procedures, and forms (e.g., monitoring, personnel certifications, procurement and personnel activity reports), as needed; and
- documentation of expenditures including contracts, vendor authorizations and invoices.

In addition RSA reviewed the following as part of the monitoring process to ensure compliance:

- third-party cooperative arrangements (TPCAs);
- internal agency fiscal reports and other fiscal supporting documentation; and
- VR agency cost-benefit analysis reports.

RSA's review of the fiscal integrity of the VR Program administered by DRS resulted in the identification of the following observations and recommendations. Appendix A of this report indicates whether or not the agency has requested TA to enable it to implement any of the below recommendations. In addition, the compliance findings identified by RSA through the implementation of this focus area are contained in Section 6 of this report.

Observations and Recommendations

5.C.1 Contract Performance Goals and Monitoring

DRS has established agreements for the provision of transition-related services. However, the stipulations in the documents do not allow DRS to assess the performance and allocation of resources regarding the services provided. DRS administers Project Skills through TPCAs with a cooperating agency for the provision of job development, job coaching, and monitoring services (see Finding 1 in Section 6 for Project Skills background information). While the TPCA agreements include two performance measures, they do not effectively assess the quality of services provided by these cooperating agencies, the effectiveness of the TPCAs from school to school, or the acquisition of skills for the individual students.

- The first TPCA performance measure established in the Project Skills agreements applies OSE Indicator 14 which measures the number of participants completing secondary education and successfully entering employment at minimum wage or post-secondary education training program. However, DRS is not able to independently assess and provide data on the acquisition of skills the students learn, the degree to which successful employment outcomes are achieved, or the impact of earning higher wages from this experience.

- The second TPCA performance measure established in the Project Skills agreements applies to the percent of employers who determine that the program and services have significantly improved the students' work readiness skills. During on-site discussions, RSA learned that while DRS has a mechanism to capture feedback from employers on Project Skills through its case management system, it is not currently utilized for reporting and tracking purposes. Instead, DRS management indicated that employer feedback is reported directly to the VR counselors in an informal manner. As a result, DRS is not able to aggregate data from employers to effectively monitor and make strategic adjustments to the Project Skills program on an ongoing basis.

Recommendation 5.C.1: RSA recommends that DRS:

- 5.C.1.1 develop and implement measureable performance goals to further support the TPCA agreement to enable the monitoring of the services provided under that agreement; and
- 5.C.1.2 improve existing monitoring processes to integrate measureable performance goals of the agreements, so that DRS can effectively evaluate service delivery in the TPCA agreement.

Technical Assistance

RSA provided TA to DRS related to the fiscal integrity of the VR program while onsite in South Dakota.

- RSA provided TA regarding fiscal requirements and reviewed its assessment of DRS' compliance with specific financial requirements – match, MOE, carryover, reallocation, and program income.
- DRS receives Social Security reimbursement VR program income and transfers a portion of the program income to the SILS program. RSA provided TA regarding the procedures for reporting transferred program income on the SF-425 reports, as well as the eligible programs to which Social Security reimbursement VR program income can be transferred.
- RSA provided TA on the procedure for reporting indirect costs on the SF-425 reports, when the indirect costs are a result of a cost allocation plan instead of an indirect cost rate.
- DRS procures services through vendor authorizations. RSA provided TA regarding the importance of vendor authorization service descriptions sufficiently detailed to ensure services identified on the authorization support the approved vocational goal and VR services on the IPE.
- DRS has written procedures that govern the rates of payment for the purchase of all VR services. RSA learned that the Governor recommends, and the State legislature approves, an annual inflation percentage that impacts the rates for these services. RSA provided TA to include the inflation into DRS's written policies and procedures that governs fees.
- RSA provided TA regarding the federal requirements related to the allowable sources of non-federal funds that can be used to meet the VR program matching requirements, including their application to the Board of Regents agreement.

- RSA provided TA regarding the inclusion of descriptive language in its authorization to strengthen the internal controls of purchased services, facilitate the review of authorizations, invoices, and supporting documentation, as well as the preparation of vouchers.

SECTION 6: COMPLIANCE FINDINGS AND CORRECTIVE ACTIONS

RSA identified the following compliance findings and corrective actions that DRS is required to undertake. Appendix A of this report indicates whether or not the agency requests TA to enable it to carry out the corrective actions. The full text of the legal requirements pertaining to each finding is contained in Appendix B.

DRS must develop a corrective action plan for RSA's review and approval that includes specific steps the agency will take to complete the corrective action, the timetable for completing those steps, and the methods the agency will use to evaluate whether the compliance finding has been resolved. RSA anticipates that the corrective action plan can be developed within 45 days from the issuance of this report and RSA is available to provide TA to assist DRS to develop the plan and undertake the corrective actions.

RSA reserves the right to pursue enforcement action related to these findings as it deems appropriate, including the recovery of funds, pursuant to 34 CFR 80.43 and 34 CFR Part 81 of EDGAR.

1. Third-Party Cooperative Arrangements

Legal Requirements:

- VR Program Regulations – 34 CFR 361.28 and 34 CFR 361.12
- EDGAR – 34 CFR 80.20(a)

A. Project Skills Third-Party Cooperative Arrangements:

Finding: DRS is not in compliance with regulations at 34 CFR 361.28 governing third-party cooperative arrangements (TPCAs) with regard to three Project Skills agreements because those agreements are not properly structured with a public agency.

DRS must satisfy the requirements at 34 CFR 361.28 when entering into TPCAs for the provision of VR services. In particular, a TPCA is an agreement that is established between DRS and another public agency that would provide VR services as well as contribute non-federal funds toward DRS's match requirement under the VR program. The services must not be the typical services generally provided by that cooperating agency (34 CFR 361.28(a)(1)). The services must be provided solely to DRS consumers and applicants (34 CFR 361.28(a)(2)). DRS must retain supervisory control over the staff providing the services and the expenditures under the agreement (34 CFR 361.28(a)(3)). The cooperating agency must adhere to all VR requirements, including order of selection, if applicable (34 CFR 361.28(a)(4)). Finally, the cooperating agency must provide the services in all areas of the State; if not, DRS must seek a waiver of statewideness from RSA (34 CFR 361.28(b)).

Since FY 1996, DRS has collaborated with the South Dakota Office of Special Education (OSE) and local school districts on a transition program called Project Skills, a paid work experience program for high school students eligible for VR services. The programming is administered, in all but three instances, pursuant to TPCAs between DRS and local schools or school districts. Under these arrangements, DRS uses federal VR funds to provide funding for wages, FICA, worker's compensation, and other costs associated with the student's work experience. The local schools use non-federal funds, which DRS in turn uses to meet its match requirement under the VR program, to provide job development, job coaching, and monitoring services.

At the time of the review, DRS had entered into a total of 59 Project Skills TPCAs with:

- 26 schools;
- 21 school districts with corresponding schools;
- nine educational cooperatives; and
- three private non-profit community rehabilitation programs (CRPs).

As part of its monitoring of the agency, RSA reviewed a sample TPCA agreement that DRS had entered into with each of the various types of cooperating agencies identified above. Each of the TPCAs was consistent in both format and content. With the exception of the three TPCAs with the private non-profit CRPs, all of the other TPCAs satisfied the requirements set forth at 34 CFR 361.28. The TPCAs between DRS and the three private non-profit CRPs did not satisfy 34 CFR 361.28(a) because they were made with private entities, not public agencies as required by federal regulations.

In its review of those three TPCAs with private non-profit CRPs, RSA read the entire contracts and found them to be deficient as drafted. The top of the contract identifies the private non-profit CRP as the cooperating agency and a representative of that CRP is a signatory to the contract. These facts, on their face, do not satisfy the requirement at 34 CFR 361.28(a), which requires that the cooperating agency be a State agency or local public agency. The three CRPs at issue – Career Connections, Cornerstones, and Employment Connections – are not State or local public agencies and, therefore, are not eligible to be a cooperating agency for purposes of 34 CFR 361.28. Interestingly, the Mitchell Public School DHS-RS-348 attachment of the Career Connections TPCA, for example, clearly and correctly states that DRS may only enter into a TPCA with a public agency and that the school is that public cooperating agency. While this boilerplate language is an accurate statement of the federal regulatory requirements at 34 CFR 361.28, the boilerplate language is not consistent with the text of the TPCA itself, which clearly names, for example, Career Connections as the cooperating agency and not Mitchell Public School. Furthermore, in this same example, Career Connections is the signatory to the TPCA, whereas in accordance with 34 CFR 361.28, the school should be the signatory since it is the entity eligible to be a cooperating agency. RSA acknowledges that attached to the TPCA between DRS and the private CRP, there is a separate document – the DHS-RS-348 titled “Agreement to Project Skills Requirements” – signed by an authorized representative of the school district to be served by the CRP. This particular document merely confirms the existence of the TPCA between DRS and the private CRP. The DHS-RS-348 is an attachment to the TPCA but does not change the fact that the TPCA itself, on its face, is between DRS and the private CRP, not the school or school district.

Finally, with regard to the TPCAs between DRS and the three private non-profit CRPs, the agreement makes it clear that the school or school district, at issue, will provide non-federal expenditures that DRS will, in turn, use toward satisfying its non-federal share requirement under the VR program. If the school or school district were indeed the cooperating agency under these particular TPCAs, the school would be required to provide the non-federal share as it is doing (34 CFR 361.28(a)). However, as described throughout this finding, the school or school district is not the cooperating agency according to the text of the TPCA, but rather the private CRP is the cooperating agency. At this point, until the deficiencies of these three TPCAs are corrected, there is no mechanism in place for DRS to use non-federal expenditures by the school toward satisfying its non-federal share requirement under the VR program.

In order to bring the three TPCAs with private non-profit CRPs into compliance with federal requirements, DRS must revise and re-execute these agreements so that they clearly name a State or local public agency as the cooperating agency and that agency is a signatory to the agreement. Furthermore, the public cooperating agency must, in turn, contract with the CRPs to provide the services on its behalf if the public cooperating agency is unable to provide those services directly. RSA could provide further technical assistance to assist DRS, as needed, to correct these deficiencies.

B. Internal Controls of the Project Skills TPCAs

As a recipient of VR funds, federal regulations require DRS to assure in its State Plan that it will implement policies and procedures for the efficient and effective administration of the VR program to ensure that all functions are carried out properly and financial accounting is accurate (34 CFR 361.12). DRS also must implement fiscal controls to ensure that VR funds are expended and accounted for accurately and that expenditures are traceable to a level sufficient to determine that such expenditures were made in accordance with applicable federal requirements (34 CFR 80.20(a)).

In monitoring DRS to ensure that the agency had implemented sufficient internal controls with regard to the 59 Project Skills TPCAs, RSA reviewed the process whereby invoices were submitted and DRS made payments for this program. According to the TPCAs, the schools submit monthly service report forms (DHS-RS-340-5/02) to VR counselors detailing the services provided by the job coach to each student served under the TPCA. On-site discussions with VR counselors indicated that paper copies of the forms are maintained locally by the counselors themselves and there was no established procedure for this monthly information to be entered into the case management system (CMS). Separately, the schools submit signed assurance of match forms (DHS-RS-346-08/06) on a quarterly basis to the Black Hills Special Services Cooperative (BHSSC) Transition Services Liaison Project (TSLP) Coordinator, summarizing the total hours of all providers that quarter spent working on job development, job coaching, and monitoring services for individuals who are served under the TPCAs. During on-site discussions, RSA learned that the TSLP Coordinator compiles the information into a database to develop quarterly reports for DRS management outlining total wages and match information for each of the schools.

While the information contained in the monthly and quarterly reports just described contain all of the information necessary to ensure the proper expenditure of VR funds, RSA learned that there was no mechanism in place to ensure the monthly hours submitted each month equaled the total quarterly hours submitted. As stated above, the counselors maintain the monthly reports themselves and the data are not entered into the CMS, whereas the quarterly reports are submitted to DRS management who has no way of accessing those monthly reports to ensure accuracy of the quarterly reports. As a result, DRS is unable to ensure the proper expenditure of VR funds or the proper accounting of non-federal funds for match purposes under the VR program as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Corrective Action 1: DRS must:

- 1.1 submit an assurance within 10 days of the final monitoring report that DRS will comply with the requirements for a TPCA set forth at 34 CFR 361.28, especially with regard to ensuring that the cooperating agency is a State or local public agency, not a private entity; and that it will implement internal controls procedures to ensure that funds spent pursuant to the TPCAs are accurate and allowable under the VR program, as required by 34 CFR 361.12 and 34 CFR 80.20(a);
- 1.2 revise and execute new TPCAs, currently between DRS and private CRPs, so that DRS enters into the agreement with an eligible State or local public agency, as required by 34 CFR 361.28(a); and
- 1.3 develop and implement internal controls procedures necessary to ensure the proper expenditure of funds pursuant to the Project Skills TPCAs, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

2. Contract Monitoring

Legal Requirements:

- VR Program Regulations – 34 CFR 361.12
- EDGAR – 34 CFR 80.20(a) and 34 CFR 80.40(a)

Finding: DRS is not in compliance with 34 CFR 80.40(a) because it does not monitor the BHSSC agreement in a manner that assures compliance with applicable federal requirements.

As a recipient of federal funds, DRS is required to implement policies and procedures for the efficient and effective administration of the VR program to ensure that all functions are carried out properly and financial accounting is accurate (34 CFR 361.12). DRS must also implement fiscal controls to ensure that VR funds are expended and accounted for accurately and that expenditures are traceable to a level sufficient to determine that such expenditures were made in accordance with applicable federal requirements (34 CFR 80.20(a)). Grantees must monitor grant-supported activities to assure compliance with the federal requirements of 34 CFR 361.12 and 34 CFR 80.20(a) and that performance goals are being achieved (34 CFR 80.40(a)).

RSA reviewed invoices submitted and paid under the BHSSC agreement, noting that the CRP submitted invoices itemizing requests for payment for “membership dues” and “food/catering” costs under the agreement. In reviewing the BHSSC agreement and associated budgets, RSA

determined that there was no agreed-upon line item in the agreement for membership dues and food costs. To the extent that these costs are necessary and reasonable for the administration of the VR program under the BHSSC agreement, these costs may be allowable VR expenditures. However, given the lack of mention of these costs in the agreement language, it is unclear whether these costs would be allowable as administrative costs under the VR program. VR funds must be spent solely on the provision of VR services or the administration of the VR program (34 CFR 361.3). Neither of these costs would constitute VR services, as defined at 34 CFR 361.5(b)(58). Without a further description of these costs and their necessity for purposes of the VR program, it is unclear whether they would constitute administrative costs, as defined at 34 CFR 361.5(b)(2). There was no evidence presented to RSA during the on-site monitoring that DRS monitored the nature of these costs prior to paying them in accordance with the submitted invoices. Without monitoring or an internal controls mechanism, DRS is unable to ensure the proper expenditure of VR funds as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Finally, such further monitoring by DRS is required, especially with regard to food costs to determine whether they are necessary and reasonable, and therefore allowable program costs, in accordance with the Memorandum to Ed Grantees Regarding The Use Of Grant Funds For Conferences And Meetings, released by the US Department of Education's Office of the Chief Financial Office in June, 2012. The memorandum addresses both conference and food costs paid for with federal funds. Specifically, federal grant funds may be used to pay for conference fees and travel expenses (transportation, per diem, and lodging) of grantee employees, consultants, or experts to attend a conference or meeting if those expenses, and number of attendees, are reasonable and necessary to achieve the purposes of the grant. Additionally, grantees hosting a meeting or conference may not use grant funds to pay for food for conference attendees unless doing so is necessary to accomplish legitimate meeting or conference business. For example, costs for a working lunch might be allowable under a federal grant if attendance at the lunch is needed to ensure the full participation by conference attendees in essential discussions and speeches concerning the purpose of the conference and to achieve the goals and objectives of the project. RSA can provide further technical assistance to DRS, as needed, to ensure proper internal controls are established with regard to the BHSSC agreement.

Corrective Action 2: DRS must:

- 2.1 submit an assurance within 10 days of the final monitoring report that DRS will implement monitoring procedures to ensure that funds spent pursuant to the BHSSC agreement are accurate and allowable under the VR program, as required by 34 CFR 361.12 and 34 CFR 80.20(a); and
- 2.2 develop and implement monitoring procedures necessary to ensure the proper expenditure of funds pursuant to the BHSSC agreement, as required by 34 CFR 80.40(a).

3. Program Income

A. Unallowable Use of Program Income

Legal Requirements:

- VR Regulations – 34 CFR 361.5, 34 CFR 361.12, 34 CFR 361.63
- EDGAR – 34 CFR 80.20(a), 34 CFR 80.21(f)(2)

Finding: DRS is not in compliance with 34 CFR 361.5(b)(20), 34 CFR 36.12, 34 CFR 361.63, and 34 CFR 80.20(a) because it has unallowably disbursed program income earned in the VR program to providers, which in turn expend these funds for the provision of supported employment (SE) extended services. In addition, DRS is not in compliance with 34 CFR 80.21(f)(2) because it does not disburse program income prior to requesting additional cash drawdowns from its federal VR award.

A. Social Security Administration Milestone Payments

DRS has entered into agreements of understanding with providers in which milestone payments from the Social Security Administration (SSA) Ticket To Work program are split between VR and the provider. VR pays for the cost of services while the case is open. VR is assigned the SSA ticket while the case is open and retains this assignment after the individual has been closed with a successful employment outcome. Under the Milestone Outcome Payment Method, there are three payment types that include four set milestone payments under Phase 1, up to 11-18 monthly milestone payments under Phase II, and up to 36-60 monthly Outcome payments. The monthly limits for the Phase II and Outcome payments are based upon whether the individual is a Title II Social Security Disability Insurance beneficiary, or a Title XVI Supplemental Security Income recipient. Phase 1 milestones are based upon the beneficiary achieving a level of earnings that reflects initial efforts at self-supporting employment. Phase 2 milestones are contingent upon the beneficiary achieving a level of earnings that reflects substantial efforts at self-supporting employment, using substantial gainful activity as the benchmark. Outcome payments provide for a schedule of payments to an employment network (EN) (or a State VR agency acting as an EN) for each month, during an individual's outcome payment period, for which SSDI and SSI benefits are not payable to the individual because of work or earnings.

On a quarterly basis, VR receives the SSA milestone payments, retains 50 percent of the payment, and provides 50 percent of the payment to the provider for Phase I – milestones 2, 3, and 4, as well as all monthly payments for Phase II and Outcome payments. Since the ticket cannot be assigned to more than one EN, or State VR agency, at the same time, all of the milestone reimbursement payments qualify as program income for the VR program. Determined to be VR program income, these funds are now subject to the provisions of the Rehabilitation Act and VR implementing regulations, and may only be used for the provision of VR services and the administration of the State Plan, or transferred to the client assistance program, the SE program, or the state independent living programs (SILS), pursuant to 34 CFR 361.63(c)(1) and (2).

Discussions with DRS staff onsite indicate that providers are using their share of the split to provide extended SE services to VR consumers. However, since 100 percent of these funds qualify as VR program income, these funds cannot be used for SE extended services, pursuant to 34 CFR 361.5(b)(20), which requires extended services to be provided with funds other than VR or SE funds.

As a recipient of federal funds, DRS is required to account for VR funds, including program income, in a manner that ensures such funds have not been used in violation of the restrictions and prohibitions of applicable statutes, pursuant to 34 CFR 80.20(a). The disbursement of program income to providers, instead of using these funds to provide VR services, administer the VR State Plan, or transfer to the Client Assistance, SE, or SILS programs, is not compliant with VR implementing regulations at 34 CFR 361.5(b)(20) and 34 CFR 361.63. Furthermore, allowing providers to utilize VR program income to fund SE extended services is not compliant with 34 CFR 361.5(b)(20).

B. Failure to Expend Program Income before Drawing Down Federal Funds

DRS's Social Security reimbursement VR program income is received through a state treasury account from which funds are accessed. DHS, as the DSA, executes the drawing down of federal funds and is also responsible for the payment of expenditures. The Social Security reimbursement program income is spent on the VR program, as well as transferred to the SILS (IL Part B) program per 34 CFR 361.63(c)(2). As part of the DRS monitoring activities, RSA reviewed the SF-269 and SF-425 reports from FYs 2007 through 2011. Discussions with DRS and DHS staff members onsite, and a review of SF-269 and SF-425 data, revealed that during FYs 2007 through 2011, program income accumulated and was not disbursed prior to requesting additional cash draws from the federal VR award, as required by 34 CFR 80.21(f)(2).

As a recipient of federal VR funds, DRS is required to: 1) have administrative procedures in place that ensure financial accountability (34 CFR 361.12), and 2) comply with the requirements set forth in 34 CFR Part 80. Regulations at 34 CFR 80.21(f)(2) require grantees to disburse program income prior to requesting additional cash payments. This means that DRS must disburse all program income prior to requesting a drawdown of additional VR funds from its federal award. Disbursement of program income may include the transfer of VR Social Security reimbursement program income to the Client Assistance, SE or IL programs, pursuant to 34 CFR 361.63(c)(2). Since program income has previously accumulated during the fiscal year, DRS was unable to ensure that program income earned during FYs 2007 through 2011 was disbursed prior to requesting additional cash payments, pursuant to 34 CFR 80.21(f)(2).

Corrective Action 3: DRS must:

- 3.1 cease disbursing VR program income funds in a manner that is inconsistent with the VR implementing regulations, and cease the expenditure of VR program income for SE extended services, pursuant to 34 CFR 361.5(b)(20) and 34 CFR 361.63, respectively;
- 3.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.12, 34 CFR 361.5(b)(20), 34 CFR 361.63, and 34 CFR 80.20(a), to ensure that VR program income is disbursed according to the implementing regulations on allowable VR services or the administration of the VR State Plan;
- 3.3 cease drawing down federal VR funds prior to disbursing available program income; and
- 3.4 submit a written assurance to RSA within 10 days of the final monitoring report that it will disburse all program income before requesting additional drawdowns from its federal VR award, as required by 34 CFR 80.21(f)(2).

4. Procurement Practices for Purchase of Client Services

Legal Requirements:

- VR Regulations – 34 CFR 361.12
- EDGAR – 34 CFR 80.20(a), 34 CFR 80.36(a)

Finding: DRS is not in compliance with 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.36(a) because it has not applied the same policies and procedures the State utilizes for procurements from its non-federal funds to the purchase of client services.

During the on-site visit, discussions with DRS and DHS staff indicated that the VR agency has been granted a procurement waiver for the purchase of client services. The waiver would allow the agency to procure equipment and client services without implementing competitive procurement procedures identified in the SD Procurement Procedures Manual. DRS and DHS staff indicated that the inception of the procurement waiver occurred in 1965. Subsequently, DRS and DHS provided a report of the Attorney General (AG) from 1965-1966 in which an official opinion of the AG was requested in regard to the legality under SD law for the “state director of vocational rehabilitation to make direct grants of state and federal funds to other state agencies and to the political subdivisions of the state and to make direct grants to private individuals, organizations and associations for vocational rehabilitation purposes.” After consideration of the facts, the AG’s response was that “the above statutes give the State Board [of Education] authority to expend state and federal moneys for the purpose of vocational rehabilitation and it is also my opinion that the expenditures of state monies for state purposes would only be limited by Article VI, Section 3 of the State constitution, which reads as follows: ‘...No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution.’”

As of the writing of this report, DRS and DHS were awaiting a determination from the AG’s office regarding the current validity of the original report. However, after review of the existing documentation, RSA noted that the determination predates the Rehabilitation Act and grants are not permitted under the amended statute and VR implementing regulations. Furthermore, this AG report provides authority to the SD State Board of Education to allow VR to expend state and federal VR dollars for VR purposes. However, since FY 1989, DRS has been functioning under the purview of the SD Department of Human Services (DHS), and the AG report has not been updated to provide DHS the same authority for VR funds to be spent in the manner identified in the 1965-1966 AG report.

As a recipient of federal VR funds, DRS is required to: 1) have administrative procedures in place that ensure financial accountability (34 CFR 361.12); and 2) comply with the requirements set forth in 34 CFR Part 80 (34 CFR 361.4(a)(5)). EDGAR regulations at 34 CFR 80.36(a) require states to follow the same policies and procedures it uses for procurements from its non-federal funds. The documentation that DRS submitted regarding the procurement waiver does not substantiate the practice of purchasing client services without following the State’s policies and procedures for procurements from its non-federal funds, outlined in the SD Procurement Procedures Manual. Therefore, it is not compliant with 34 CFR 80.36(a).

Corrective Action 4: DRS must:

- 4.1 cease purchasing client services without following SD's policies and procedures for procurements from its federal and non-federal funds;
- 4.2 submit a written assurance to RSA within 10 days of the final monitoring report that it will follow SD's policies and procedures for procurements from federal and non-federal funds, as required by 34 CFR 80.36(a); and
- 4.3 develop and implement internal processes necessary to ensure that existing and future purchases and contracts comply with SD procurement policies and procedures.

5. Failure to Submit Accurate SF-269 and SF-425 Reports

Legal Requirements:

- VR Regulations – 34 CFR 361.12
- EDGAR – 34 CFR 80.20(a)

Finding: DRS is not in compliance with the requirements of 34 CFR 361.12 and 34 CFR 80.20(a) because it has submitted inaccurate SF-269 and SF-425 reports for FYs 2007 through 2011. In particular, DRS failed to report that its indirect costs are generated by a cost allocation plan instead of indirect cost rate for FYs 2010 and 2011 on the SF-425 report. It also did not accurately report program income transferred to the SILS program on the SF-269 and SF-425 reports for FYs 2007 through 2010.

A. Indirect Costs

For the FY 2010 VR award, the SF-425 reports revealed that the Indirect Expense data element for the Rate (11b) and the Base (11d) were reported as zero on the fourth quarter report for FY 2010, and the Rate reported as zero on the final report. For the FY 2011 VR award, the Rate (11b) was reported as zero on the eighth quarter report. The instructions in RSA-PD-11-02, implemented October 26, 2010 (revised as RSA-PD-12-06, implemented February 13, 2012) require grantees reporting indirect costs under a cost allocation plan to enter 100 percent in the Indirect Expense data element for the Rate (11b) and to report the total amount of the cost allocation plan costs for the Base (11d) data element. Due to automatic calculations in the SF-425 form, this resulted in a zero reported for the Amount Charged (11e) data element for all instances. Therefore, the SF-425 reports submitted by DRS for those years did not accurately reflect the actual indirect costs incurred by the agency under the VR program, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

B. Program Income

Discussions with DRS and DHS staff, as well as a review of the SF-269 and SF-425 reports for FYs 2007 through 2010, confirmed that DRS transferred VR Social Security reimbursement program income to the SILS program for all years in that time span.

- The VR SF-269 reports for FYs 2007 and 2008 indicated the amount of VR program income transferred to the SILS program in the Remarks section (12). None of the FY 2009 VR SF-269 reports indicated that VR transferred eligible program income to any of the eligible programs. However, information provided by DHS and DRS staff confirmed that program income was transferred to the SILS program during that year. A review of the SILS SF-269 reports for all three years did not demonstrate that the funds were obligated and/or expended in Remarks (12) on the report of the eligible program into which the funds were transferred, as required in the SF-269 instructions (RSA-TAC-01-01).
- The FY 2010 VR SF-425 final report (eighth quarter) demonstrates that funds were transferred to the SILS program (12e). However, a review of the fourth quarter and final FY 2010 SILS SF-425 reports indicates that the transferred program income was not reported under Total Program Income Earned (10l) or Remarks (12) data elements.

Federal regulations require that all recipients of federal funds must accurately report the financial results of all federally-assisted activities (34 CFR 361.12 and 34 CFR 80.20(a)). DRS, as a recipient of federal Title I VR funds, must comply with the requirements of 34 CFR Part 80 (34 CFR 361.4(a)(5)). DRS's inaccurate reporting of indirect costs results in an inaccurate reporting of the expenditures that DRS incurred in each of those years. The inaccurate reporting of transferred program income will not allow DRS to ensure compliance with the requirement to disburse program income prior to requesting additional cash draws from its federal award (34 CFR 80.21(f)(2)). Therefore, DRS's submission of inaccurate reports is not compliant with the requirements of 34 CFR 361.12 and 34 CFR 80.20(a).

Corrective Action 5: DRS must:

- 5.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will report indirect costs, and VR Social Security reimbursement program income transfers from VR to any eligible receiving program, completely and accurately on the SF-269 and SF-425 reports, as required by 34 CFR 361.12 and 34 CFR 80.20; and
- 5.2 develop and implement internal processes necessary to ensure the submission of accurate Federal Financial Reports to RSA.

6. Unallowable Match for the VR Program

Legal Requirements:

- VR Regulations – 34 CFR 361.12 and 34 CFR 361.28
- EDGAR – 34 CFR 80.20(a)

Finding: DRS is not in compliance with 34 CFR 361.12, 34 CFR 361.28, and 34 CFR 80.20(a) because the certified expenditures received from public entities used as match for the VR program are not part of an allowable TPCA.

DRS has implemented an institution of higher education (IHE) agreement with the SD Board of Regents which describes the responsibilities of each entity when a VR consumer requiring

reasonable accommodations is attending one of the six public universities. While the document language states that the college pays 21.3 percent of the cost and VR pays 78.7 percent, a review of a sample invoice and discussions onsite indicated that the IHE pays for 100 percent of the cost and then submits an invoice to VR to reimburse the college at 78.7 percent. As a result, this process effectually certifies the college's expenditures related to the reasonable accommodations. In order to use certified expenditures as match for the VR program, VR agencies are required to enter into TPCAs with State or local public agencies for the provision of VR services to applicants for, or recipients of, VR services, pursuant to 34 CFR 361.28.

On-site discussions with DRS staff for the review of the description of services provided to VR consumers indicates that they are the same services that the IHE would provide to any student requiring a reasonable accommodation. As a result, DRS's description of the service provision does not meet the TPCA requirements that services are not the customary or typical services provided by that agency but are new services that have a VR focus or existing services that have been modified, adapted, expanded, or reconfigured to have a VR focus, pursuant to 34 CFR 361.28(a)(1).

Related to Finding Number 1 above, in order for DRS to enter into TPCAs, it must satisfy the requirements at 34 CFR 361.28. In particular, a TPCA is one that is established between DRS and another public agency that would provide VR services as well as provide non-federal funds toward DRS's match requirement under the VR program. The services must not be the typical services generally provided by that cooperating agency (34 CFR 361.28(a)(1)), but must be new services with a VR focus or existing services modified to have a VR focus. The services must be provided solely to DRS consumers and applicants (34 CFR 361.28(a)(2)). DRS must retain supervisory control over the staff providing the services and the expenditures under the agreement (34 CFR 361.28(a)(3)). The cooperating agency must adhere to all VR requirements, including order of selection, if applicable (34 CFR 361.28(a)(4)). Finally, the cooperating agency must provide the services in all areas of the State. If not, DRS must seek a waiver of statewideness from RSA (34 CFR 361.28(b)).

All of the above requirements have been met with the cooperating agency except for the requirement that the services cannot be the usual or customary services generally provided by that cooperating agency, but must be new services with a VR focus or existing services modified to have a VR focus, pursuant to 34 CFR 361.28(a)(1).

As a recipient of federal VR funds, DRS is required to: 1) have administrative procedures in place that ensure financial accountability (34 CFR 361.12); and 2) comply with the requirements set forth in 34 CFR Part 80 (34 CFR 361.4(a)(5)). EDGAR regulations at 34 CFR 80.20(a) require DRS to account for VR funds in a manner that ensures such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. The use of certified expenditures from IHEs, without the implementation of an allowable TPCA, is not an allowable source of match for the VR program, and is not in compliance with the VR implementing regulations and EDGAR regulations at 34 CFR 361.12, 34 CFR 361.28, and 34 CFR 80.20(a).

Corrective Action 6: DRS must:

- 6.1 cease accepting certified expenditures as match for the VR program when the expenditures are not part of an allowable TPCA; and
- 6.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will not accept certified expenditures as match for the VR program when the expenditures are not part of an allowable TPCA, as required by 34 CFR 361.12, 34 CFR 361.28, and 34 CFR 80.20(a).

7. Cost Allocation between VR Agencies

Legal Requirements:

Rehabilitation Act – Sections 101(a)(2)(C) and 111(a)(1)

VR Program Regulations – 34 CFR 361.3, 34 CFR 361.12 and 34 CFR 361.13(b)(2)

EDGAR – 34 CFR 80.20(a)

Federal Cost Principles – 2 CFR 225, Appendix A, paragraphs C.1 and C.3

Finding: DRS is not in compliance with Section 111(a)(1) of the Rehabilitation Act; regulations at 34 CFR 361.3, 34 CFR 361.12 and 34 CFR 80.20(a); and federal cost principles at 2 CFR 225, Appendix A, because it expends VR program funds allotted for the administration of the program and the provision of services under its State Plan on costs that must be charged to that part of the VR program administered by South Dakota Services to the Blind and Visually Impaired (SBVI) under that agency's State Plan.

Section 101(a)(2) of the Rehabilitation Act permits a state to designate more than one organizational unit for the provision of VR services, stating:

If the State has designated only 1 State agency pursuant to subparagraph (A), the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided for individuals who are blind to an organizational unit of the designated State agency and assign responsibility for the rest of the plan to another organizational unit of the designated State agency...

See also regulations at 34 CFR 361.13(b)(2). In addition, Section 111(a)(1) and regulations at 34 CFR 361.3 allow the use of VR program funds only for the provision of services and the administration of the program under the State Plan. Taken together, these statutory and regulatory provisions mean that if a state has designated more than one state unit, one to serve individuals who are blind and visually impaired and another to serve individuals with all other disabilities, each unit is responsible for the VR program expenditures it incurs in connection with the provision of VR services or the administration of the program under its own State Plan.

In accordance with Section 101(a)(2) of the Rehabilitation Act and 34 CFR 361.13(b)(2), South Dakota has established two separate agencies to administer and operate the VR program in that state, SBVI for the provision of VR services to individuals who are blind and visually impaired and DRS for the provision of these services to all other individuals with disabilities. Each agency submits a State Plan with annual updates describing the manner in which it provides VR services and administers the program to its respective populations.

Federal regulations at 34 CFR 361.12 and 34 CFR 80.20(a) require the agency to implement fiscal control and accounting procedures sufficient to permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Federal cost principles at 2 CFR 225, Appendix A, paragraph C.1 state that for a cost to be allowable under a federal award, it must be allocable to the federal award. Paragraph C.3 of this section states that a cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received. Finally, any cost allocable to a particular federal award or cost objective under the principles provided for in 2 CFR 225 may not be charged to other federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the federal awards, or for other reasons (2 CFR 225, Appendix A, paragraph C.3.c).

Through the course of this monitoring, RSA has found that DRS in the instances described below has incurred VR program costs that must be instead charged to that portion of the program in South Dakota administered and operated by SBVI.

- DRS, along with the SD Office of Special Education (OSE), contract with the Black Hills Special Service Cooperative (BHSSC) to provide transition services through a TSLP Coordinator and four Regional TSLP liaisons. The FY 2012 BHSSC contract has a total budget of \$424,777.85, with DRS and OSE each providing 50 percent of the funding, or \$212,388.93. A review of the BHSSC agreement language identified multiple instances in which services are provided to DRS VR counselors, including training opportunities, conferences, and forums, as well as collaboration and coordination activities related to the provision of services to transition-age youths. Discussions with BHSSC staff confirmed that many of the services were also provided to SBVI, including the participation of SBVI counselors in these trainings. Discussions with DRS and DHS staff, as well as a review of the invoices provided, indicate that DRS is providing all of the VR share of the BHSSC contract, without allocating any costs for activities benefitting SBVI's VR grant (see also Finding Number 2 above regarding cost allocation and invoice processing of the BHSSC contract).
- SBVI consumers participate in TSLP activities and the SBVI Transition Specialist works closely with the TSLP. However, the agreement with Black Hills Special Services Cooperative is only with DRS.

As DRS and SBVI are responsible for that portion of the VR program it administers under separate State Plans, each can only incur those costs that can be properly assigned to it in accordance with Section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3. In addition, pursuant to regulations at 34 CFR 361.12 and 34 CFR 80.20(a), DRS and SBVI must be able to trace expenditures for the provision of VR services and administrative costs under each State plan separately, and allocate costs proportionally based upon the benefits received. Because DRS expends funds allotted to it for its administration and operation of its portion of the VR program in South Dakota on those costs identified above that must be charged to SBVI, DRS is not in compliance with these requirements and the federal cost principles at 2 CFR 225, Appendix A.

Corrective Action 7: DRS must:

- 7.1 cease using VR program funds to pay for expenditures that must be incurred by SBVI for its portion of the administration and operation of the South Dakota VR program pursuant to 34 CFR 361.12, 34 CFR 80.20(a) and the federal cost principles at 2 CFR 225, Appendix A; and
- 7.2 submit a written assurance to RSA within ten days of the issuance of the final monitoring report that expenditures for the VR program will comply with 34 CFR 361.12, 34 CFR 80.20(a), and the federal cost principles contained in 2 CFR 225, Appendix A.

8. SEA Agreement – South Dakota Cooperative Agreement Concerning Transition Services for Youth with Disabilities

Legal Requirement:

- Rehabilitation Act – Section 101(a)(11)(D)
- VR Program Regulations – 34 CFR 361.22(b)

Finding: The current interagency agreement on transition services between DRS and the SD Department of Education, SD Department of Labor, and SD Department of Social Services does not describe outreach procedures by DRS needing transition services.

Section 101(a)(11)(D) of the Act and 34 CFR 361.22(b) require that the State Plan for Titles I and VI-B provide information on the coordination of transition services with the state educational agency. The agreement, at a minimum, must provide for – (1) consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services; (2) transition planning by personnel of the designated State agency and education personnel for students with disabilities that facilitates the development and completion of the IEP; (3) the roles and responsibilities, including financial responsibilities, of each agency; and (4) procedures for outreach to and identification of students with disabilities who need transition services.

The current state interagency agreement dated July, 2010 does not include procedures for outreach, to, and identification of, students with disabilities in need of transition services pursuant to Section 101(a)(11)(D)(iv) and 34 CFR 361.22(b)(4). The DRS agreement outlines the services provided by each agency to students with disabilities in different age groups. The DRS interagency agreement meets all of the provisions set forth in 34 CFR 361.22(b), except the agreement does not specifically describe the DRS outreach procedures for students with disabilities in need of transition services who do not receive services under an IEP with Project Skills, such as those receiving regular education services, education services under a 504 plan or youth who are not in school.

Corrective Action 8: DRS must:

- 8.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will include procedures for outreach, to, and identification of, students with disabilities

in need of transition services within the SEA agreement pursuant to Section 101(a)(11)(D)(iv) of the Rehabilitation Act and 34 CFR 361.22(b)(4); and
8.2 amend its SEA agreement to describe the procedures to be used by DRS and the other agencies for the identification of and outreach to all students with disabilities in need of transition services.

APPENDIX A: SOUTH DAKOTA DIVISION OF REHABILITATION SERVICES RESPONSE

Section 4: Results of Prior Monitoring Activities

Division of Rehabilitation Services does not request any technical assistance (TA) from the goals identified in the FY 2007 monitoring report.

Section 5: Focus Areas

5.C.1 Contract Performance Goals and Monitoring

- 5.C.1.1 develop and implement measureable performance goals to further support the TPCA agreement to enable the monitoring of the services provided under that agreement; and
- 5.C.1.2 improve existing monitoring processes to integrate measureable performance goals of the agreements, so that DRS can effectively evaluate service delivery in the TPCA agreement.

Agency Response: Division of Rehabilitation Services will comply with recommendation 5.C.1 Contract Performance Goals and Monitoring

Technical Assistance: DRS does not request TA.

Section 6: Compliance Findings and Corrective Actions

1. Third-Party Cooperative Arrangement

Corrective Action: DRS must:

- 1.1 submit an assurance within 10 days of the final monitoring report that DRS will comply with the requirements for a TPCA set forth at 34 CFR 361.28, especially with regard to ensuring that the cooperating agency is a State or local public agency, not a private entity; and that it will implement internal controls procedures to ensure that funds spent pursuant to the TPCAs are accurate and allowable under the VR program, as required by 34 CFR 361.12 and 34 CFR 80.20(a);
- 1.2 revise and execute new TPCAs, currently between DRS and private CRPs, so that DRS enters into the agreement with an eligible State or local public agency, as required by 34 CFR 361.28(a); and
- 1.3 develop and implement internal controls procedures necessary to ensure the proper expenditure of funds pursuant to the Project Skills TPCAs, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Agency Response: Division of Rehabilitation Services will comply with Section 6, Finding 1: Third-Party Cooperative Arrangement.

Technical Assistance: DRS does not request TA.

2. Contract Monitoring

Corrective Action: DRS must:

- 2.1 submit an assurance within 10 days of the final monitoring report that DRS will implement monitoring procedures to ensure that funds spent pursuant to the BHSSC agreement are accurate and allowable under the VR program, as required by 34 CFR 361.12 and 34 CFR 80.20(a); and
- 2.2 develop and implement monitoring procedures necessary to ensure the proper expenditure of funds pursuant to the BHSSC agreement, as required by 34 CFR 80.40(a).

Agency Response: Division of Rehabilitation Services will comply with Section 6, Finding 2: Contract Monitoring.

Technical Assistance: DRS requests TA.

3. Program Income

Corrective Action: DRS must:

- 3.1 cease disbursing VR program income funds in a manner that is inconsistent with the VR implementing regulations, and cease the expenditure of VR program income for SE extended services, pursuant to 34 CFR 361.5(b)(20) and 34 CFR 361.63, respectively;
- 3.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.12, 34 CFR 361.5(b)(20), 34 CFR 361.63, and 34 CFR 80.20(a), to ensure that VR program income is disbursed according to the implementing regulations on allowable VR services or the administration of the VR State Plan;
- 3.3 cease drawing down federal VR funds prior to disbursing available program income; and
- 3.4 submit a written assurance to RSA within 10 days of the final monitoring report that it will disburse all program income before requesting additional drawdowns from its federal VR award, as required by 34 CFR 80.21(f)(2).

Agency Response: Division of Rehabilitation Services will comply with Section 6, Finding 3: Program Income.

Technical Assistance: DRS requests TA.

4. Procurement Practices for Purchase of Client Services

Corrective Action: DRS must:

- 4.1 cease purchasing client services without following SD's policies and procedures for procurements from its federal and non-federal funds;

- 4.2 submit a written assurance to RSA within 10 days of the final monitoring report that it will follow SD's policies and procedures for procurements from federal and non-federal funds, as required by 34 CFR 80.36(a); and
- 4.3 develop and implement internal processes necessary to ensure that existing and future purchases and contracts comply with SD procurement policies and procedures.

Agency Response: The Division of Rehabilitation Services will comply with Section 6, Finding 4: Procurement Practices for Purchase of Client Services.

Technical Assistance: DRS requests TA.

5. Failure to Submit Accurate SF-269 and SF-425 Reports

Corrective Action: DRS must:

- 5.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will report indirect costs, and VR Social Security reimbursement program income transfers from VR to any eligible receiving program, completely and accurately on the SF-269 and SF-425 reports, as required by 34 CFR 361.12 and 34 CFR 80.20; and
- 5.2 develop and implement internal processes necessary to ensure the submission of accurate Federal Financial Reports to RSA.

Agency Response: The Division of Rehabilitation Services will comply with Section 6, Finding 5: Failure to Submit Accurate SF-269 and SF-425 Reports. The Division of Rehabilitation Services requests clarification regarding this finding. Please provide the Policy Directive or Policy Memorandum that identified the change to the reporting requirements and included instructions for completing the modified version of the SF-425.

RSA Response: RSA provided DRS with the most recent policy directive (RSA-PD-12-06, issued February 13, 2012) regarding the SF-425 instructions.

Technical Assistance: DRS does not request TA.

6. Unallowable Match for the VR Program

Corrective Action: DRS must:

- 6.1 cease accepting certified expenditures as match for the VR program when the expenditures are not part of an allowable TPCA; and
- 6.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will not accept certified expenditures as match for the VR program when the expenditures are not part of an allowable TPCA, as required by 34 CFR 361.12, 34 CFR 361.28, and 34 CFR 80.20(a).

Agency Response: Division of Rehabilitation Services will comply with Section 6, Finding 6: Unallowable Match for the VR Program

Technical Assistance: DRS does not request TA.

7. Cost Allocation between VR Agencies

Corrective Action: DRS must:

- 7.1 cease using VR program funds to pay for expenditures that must be incurred by SBVI for its portion of the administration and operation of the South Dakota VR program pursuant to 34 CFR 361.12, 34 CFR 80.20(a) and the federal cost principles at 2 CFR 225, Appendix A; and
- 7.2 submit a written assurance to RSA within ten days of the issuance of the final monitoring report that expenditures for the VR program will comply with 34 CFR 361.12, 34 CFR 80.20(a), and the federal cost principles contained in 2 CFR 225, Appendix A.

Agency Response: Division of Rehabilitation Services will comply with Section 6, Finding 7: Cost Allocation between VR agencies

Technical Assistance: DRS does not request TA.

8. SEA Agreement – South Dakota Cooperative Agreement Concerning Transition Services for Youth with Disabilities

Corrective Action: DRS must:

- 8.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will include procedures for outreach, to, and identification of, students with disabilities in need of transition services within the SEA agreement pursuant to Section 101(a)(11)(D)(iv) of the Rehabilitation Act and 34 CFR 361.22(b)(4); and
- 8.2 amend its SEA agreement to describe the procedures to be used by DRS and the other agencies for the identification of and outreach to all students with disabilities in need of transition services.

Agency Response: Division of Rehabilitation Services will comply with Section 6, Finding 8: SEA Agreement.

Technical Assistance: DRS does not request TA.

APPENDIX B: LEGAL REQUIREMENTS

This Appendix contains the full text of each legal requirement cited in Section 6 of this report.

Rehabilitation Act of 1973, as amended

Section 101(a)(2)(C)

If the State has designated only 1 State agency pursuant to subparagraph (A), the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided for individuals who are blind to an organizational unit of the designated State agency and assign responsibility for the rest of the plan to another organizational unit of the designated State agency, with the provisions of subparagraph (B) applying separately to each of the designated State units.

Section 111(a)(11)(D)

The State plan shall contain plans, policies, and procedures for coordination between the designated State agency and education officials responsible for the public education of students with disabilities, that are designed to facilitate the transition of the students with disabilities from the receipt of educational services in school to the receipt of vocational rehabilitation services under this title, including information on a formal interagency agreement with the State educational agency that, at a minimum, provides for--

- (i) consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;
- (ii) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act;
- (iii) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and
- (iv) procedures for outreach to and identification of students with disabilities who need the transition services.

Section 111(a)(1)

Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for the State approved under section 101, including expenditures for the administration of the State plan.

VR Program Regulations

34 CFR 361.3

The Secretary makes payments to a state to assist in-

- (a) The costs of providing vocational rehabilitation services under the State Plan; and
- (b) Administrative costs under the State Plan

34 CFR 361.5

- (a) Other definitions. The following definitions also apply to this part:

- (20) *Extended services* means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment and that are provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received under this part and 34 CFR part 363 after an individual with a most significant disability has made the transition from support provided by the designated State unit.

34 CFR 361.12

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under [the VR program]. These methods must include procedures to ensure accurate data collection and financial accountability.”

34 CFR 361.13

- (b) *Designation of State unit.*

- (2) In the case of a State that has not designated a separate State agency for individuals who are blind, as provide for in paragraph (a)(3) of this section, the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided to individuals who are blind to one organizational unit of the designated state agency and may assign responsibility for the rest of the plan to another organizational unit of the designated state agency, with the provisions of paragraph (b)(1) of this section applying separately to each of these units.

34 CFR 361.22

- (b) *Formal interagency agreement.* The State plan must include information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—
 - (1) Consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;

- (2) Transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs (IEPs) under section 614(d) of the Individuals with Disabilities Education Act;
- (3) The roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and
- (4) Procedures for outreach to and identification of students with disabilities who are in need of transition services. Outreach to these students should occur as early as possible during the transition planning process and must include, at a minimum, a description of the purpose of the vocational rehabilitation program, eligibility requirements, application procedures, and scope of services that may be provided to eligible individuals.

34 CFR 361.28

The designated State unit may enter into a third-party cooperative arrangement for providing or administering vocational rehabilitation services with another state agency or a local public agency that is furnishing all of the non-Federal Share, if the designated State unit ensures that –

- (1) The services provided by the cooperating agency are not the customary or typical services provided by that agency but are new services that have a vocational rehabilitation focus or existing services that have been modified, adapted, expanded, or reconfigured to have a vocational rehabilitation focus;
- (2) The services provided by the cooperating agency are only available to applicants for, or recipients of, services from the designated State unit;
- (3) Program expenditures and staff providing services under the cooperative arrangement are under the administrative supervision of the designated state unit; and
- (4) All state plan requirements, including a State's order of selection, will apply to all services provided under the cooperative program.

34 CFR 361.60

(a) Federal share.

- (1) General. Except as provided in paragraph (a)(2) of this section, the Federal share for expenditures made by the State under the State plan, including expenditures for the provision of vocational rehabilitation services and the administration of the State plan, is 78.7 percent.
- (2) Construction projects. The Federal share for expenditures made for the construction of a facility for community rehabilitation program purposes may not be more than 50 percent of the total cost of the project.

(b) Non-Federal share.

- (1) General. Except as provided in paragraph (b)(2) and (3) of this section, expenditures made under the State plan to meet the non-Federal share under this section must be consistent with the provisions of 34 CFR 80.24.

34 CFR 361.63

- (a) *Definition.* For purposes of this section, *program income* means gross income received by the State that is directly generated by an activity supported under this part.
- (b) *Sources.* Sources of program income include, but are not limited to, payments from the Social Security Administration for assisting Social Security beneficiaries and recipients to achieve employment outcomes...
- (c) *Use of program income.*
 - (1) Except as provided in paragraph (c)(2) of this section, program income, whenever earned, must be used for the provision of vocational rehabilitation services and the administration of the State plan. Program income is considered earned when it is received.
 - (2) Payments provided to a State from the Social Security Administration for assisting Social Security beneficiaries and recipients to achieve employment outcomes may also be used to carry out programs under part B of Title I of the Act (client assistance), part B of Title VI of the Act (supported employment), and Title VII of the Act (independent living).

Education Department General Administrative Regulations (EDGAR)

34 CFR 80.20

- (a) A state must exp[en]d and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:
 - (1) Permit preparation of reports required by this part and the statutes authorizing the grant; and
 - (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

34 CFR 80.21

- (f) Effect of Program income, refunds, and audit recoveries on payment. (1) Grantees and subgrantees shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.
- (2) Except as provided in paragraph (f)(1) of this section, grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments for the same activity.

34 CFR 80.24

- (a) Basic rule: Costs and contributions acceptable. With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:
 - (1) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.

34 CFR 80.36

- (a) *States*. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations.

34 CFR 80.40

- (a) Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

Federal Cost Principles

2 CFR 225, Appendix A, Paragraphs C.1 and C.3

- C.1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:
 - a. Be necessary and reasonable for proper and efficient performance and administration of Federal Awards...
 - b. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.
- 3. Allocable costs.
 - a. A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.